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PUBLIC ORDER AND SAFETY

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In a totalitarian regime the employment of terror is a primary strategy by which public order is maintained and the consolidation of political power is assured. The Communist regime in the Central-South Region has not hesitated to pursue such a policy, employing it on an intensive scale which covers all spheres of activity. Such a policy is insured by maintaining a rigid control over the populace and by employing various means for suppression of opposition. The judicial organ of government is conceived neither as an institution of justice nor as a protector of individual rights, but it is designed to serve as a weapon of the state for the suppression of all opposition, thereby "safeguarding the people's democratic system and protecting public property." Likewise, to insure observance of the law, the local People's Procuratorate, although a "judicial organ," exercises procuratorial authority over all local state agencies, over government workers, and over all citizens in general. The procuratorates serve as instruments of control over the People's courts and public security agencies, particularly since they have the power to supervise the People's courts in adjudication matters, the security agencies in investigation activities, and the execution of judgment in criminal cases. Both the police and public security agencies with their own security forces are instruments of violence. They assume direct responsibility for the maintance of public order and constant vigilance over the entire populace. They are integrated systems, subject to the control of the Central People's

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Government and rigidly supervised by the Communist Party. 692 625

The use of terror is inherent in a dictatorship, where subordination to a single will is required. The imposition of a single will upon an entire society is certain to meet opposition; the more rapid and drastic the change, the stronger the resistance. To crush this resistance, terror and violence are employed. The Communist regime imposes upon society a new political ideology and its act are calculated to destroy the old order while creating a new one. It is for this reason that violence and terror are widespread and their impact upon the entire society alarming. [The activities of resistance groups will be discussed in the chapter on Subversive Potentialities.]

I. PEOPLE'S COURTS AND PEOPLE'S PROCURATORATE

A. People's Courts

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As political weapons of the state, the People's courts have actively engaged in the suppression of counterrevolutionary activities and maintenance of public order. The Communists established a Supreme People's Court[1] in November 1949; a branch court was established in the Central-South Region a year later.[2] It serves as the representative of the Supreme People's Court and as the final

1. Official report by Shen Chuen-ju, Jen-min Jih-pao [People's Daily], June 2, 1950, p. 1.
2. Ch'ang-chiang Jih-pao [Yangtze Daily], Nov. 2, 1950, p. 1.

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court of this region. At lower levels, the old courts were left intact and were allowed to function. However, centralized control over these local courts was subsequently established. 692

The courts, like other organs of the state, underwent several stages in development; however, they followed a different course and their functions varied from time to time. For instance, during the first stage, prior to June 1952, the courts served as instruments of violence, carrying out with relentlessness the land reform in the rural areas and the Three-Anti and Five-Anti campaigns in the cities. During the second stage, between June 1952 and the spring of 1953, the courts completed judicial reform that enabled them to legalize their authority, replacing that of the former courts. During the third stage, from September 1954 to the present, they have consolidated their authority and have begun to function as judicial organs in conformity with the Organic Law of the People's courts of the People's Republic of China. Let us now discuss the three stages in greater detail. 692 668

1. The First Stage The distinguishing feature of judicial activities during this stage is the wide use of the People's tribunal in the land reform, and in Three-Anti and Five-Anti campaigns. This devotion to the administration of the criminal code in connection with the suppression of opposition made possible the concentration of judicial authority in the hands of Party functionaries and the complete subordination of judicial functions for political expediency.

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According to the regulation and the directive concerning the People's tribunal for land reform[3] issued in 1951 by the Central-South China Military and Political Committee, the county and city tribunals were to be directly under the leadership of the People's governments concerned and to be a component part of the People's court of the respective level. People's tribunals were established in every two or three ch'ü and were given sole authority in dealing with criminal matters, including the authority to impose sentences of not more than five years' imprisonment. They also have the authority to prosecute counterrevolutionaries and to initiate arrests. The political character of the tribunal can be detected by the composition of the adjudication committee, composed of a president, a deputy, and several judges, half of which was to be appointed by the People's government and the rest "elected" by the People's representatives from public security, the Peasant's Association, and other mass organizations. Specifically, the county head in some cases and the ch'ü head in all cases were the presidents of the tribunals.

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Tribunals were rapidly organized during the land reform. By June 1951, there were 366 county tribunals and 1,841 ch'ü tribunals established in the Central-South Region, and 143,761 cases had been tried.[4] However, these figures fail to suggest

3. Text of both in Yangtze Daily, Feb. 1, 1951, p. 2, and ibid., July 29, 1951, p. 1.

4. Official record of Conference summarizing the work of People's tribunals in the Central-South Region, Yangtze Daily, June 12, 1951, p. 1, and ibid., July 13, 1951, p. 3.

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the violence and the intensity involved. The operation of these tribunals relied heavily on mass hysteria and mob hatred. The administration of the trials by Party functionaries insured the use of terror. When cases were heard, the judges of the People's tribunals bombarded the masses with propaganda. The masses were sufficiently agitated to denounce as reactionaries those whom the Party had previously singled out for prosecution. After mass emotion was aroused and denunciations were made, judgment was passed by the masses and sentence rendered at the instigation of the adjudication committee controlled by the Party. Such a mass trial could not avoid intimidation and violence toward the accused.

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During the Three-Anti and Five-Anti campaigns, People's tribunals were established by the directives of the Government Administration Council.[5] They were organized in the administrative units and in the armed forces. The president of the adjudication committee consequently was the leading figure. Members of the committee were activists representing various Party-controlled organizations. These tribunals were empowered to mete out death sentences. Such a practice illustrates the extent to which a judicial organ can be manipulated by the Communists for political purposes.

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5. Directive on the organization of the tribunals in Yangtze Daily, April 1, 1952, p. 1, and ibid., March 26, 1952, p. 1, respectively.

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The effective use of People's tribunals as weapons of force was introduced after the judicial reform.[6] During the nationwide elections in 1953-54, People's tribunals were again widely used. Their main function was to suppress and punish violators and unqualified candidates and voters, including those citizens accused of counterrevolutionary activity. These tribunals worked in coordination with the election committees at all levels. As of February 1954, in thirty-six counties in Kiangsi Province, 75 tribunals were established in 312 hsiangs and towns.

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2. The Second Stage Numerous problems faced the judicial organs after the Communist seizure of power. At least two serious changes were contemplated by the Communists -- the elimination of the code system and the replacement of the Nationalist-trained judicial workers. But they were not completed until the judicial reform in 1952. With the exception of the complete abandonment of the Kuomintang code, the Liu-fa Ch'üan-shu[7] [The Compendium of the Six Codes], the Communists did not attempt to change the Kuomintang court system or to replace its judicial personnel. This was by no means an indication that the old system would be 692

6. Reports concerning this type of tribunal in People's Daily, Feb. 7, 1954, p. 3.

7. One edition of this work is Wu Ching-hsiung, Chung-hua Min-kuo Liu-fa Hui-pien, 6 vols., [The Compendium of the Six Codes of the Republic of China], Shanghai, Hui-wen T'ang, 1947.

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retained. On the contrary, by means of People's tribunals, which gave judicial authority to the lower courts, and by strengthening the judicial control organs such as the People's procuratorates, the Communists were able to utilize the old courts and the old judicial personnel for new purposes. This explains in part why judicial reform was delayed until the completion of the several drives in 1951-52.

The judicial reform was primarily a mass campaign. The steps involved included the arousal of the masses to participate in the inspection of prisons and the review of old cases; the use of criticism and self-criticism; and the reorganization of the judicial organs and the reconstruction of judicial authority based upon the new People's court system. During the reform, in the city of Wuhan alone, 6,660 cases were singled out for review.[8]

To eliminate personnel from the previous regime was the aim of the judicial reform. In the entire region,[9] of the 6,680 court workers in September 1952, some 1,643 (about 24 per cent) had been trained under the Nationalist regime. The percentage was as high as 57 in Hunan, 62 in Hupeh, and 43 in Kwangtung. The percentage was particularly high among employees in the upper courts. Of the sixty-six workers in Kiangsi provincial court, thirty-five trained under the Nationalist regime remained in

8. Report of the movement in Wuhan, Yangtze Daily, Nov. 14, 1952, p. 3.

9. Ibid., September 2, 1952, p. 1; cf. Shih-Liang's reports on the national scene in ibid., Aug. 24, 1952, p. 1, and Sept. 23, 1952, p. 1. English text of the report in Current Background, No. 218, Nov. 5, 1952, pp. 31-34.

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service after the Communists assumed control. No doubt this figure was exaggerated by the Communists to illustrate the degree of influence of old-line workers, who were charged with corruption on various counts; cases involving them were reported to be as high as 80 per cent in Kwangtung.[10] This exaggerated percentage served to justify the Communist judicial reform.

In regard to the elimination of old judicial practices, the Communists attacked the old system[11] on four counts: (a) that the judiciary was a weapon employed by one class for the suppression of the opposing class; (b) that the exceedingly mechanical procedure of the old courts should be condemned as a bourgeois practice and was deemed unnecessary; (c) that the assumption of a purely legalistic approach to a case that does not reflect the economic and social relationship of the society was contrary to the socialist view of law; and (d) that the use of precedents for adjudication of a case should also be discarded as a bourgeois practice.

To stress the development of a new judicial system, the Communists introduced several innovations:[12] (a) the simplication of jurisdiction, the

10. Yangtze Daily, Sept. 12, 1952, p. 3.

11. Articles were found in the Yangtze Daily, Feb. 18, 1951, p. 3. and Li Kuang-ts'an, "P'i-p'ing Jen-min Fa-lü Ti Chiu-fa Kuan-tient" ["Criticizing the People's Law from the Old Jurisprudential View point"], Hsüeh-hsi, No. 7, Oct. 1, 1952, pp. 16-19.

12. Report of Chang Chih-i, Yangtze Daily, Sept. 26, 1952, p. 3.

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reduction of appellant cases, and the concentration of judicial authority in the lower courts; (b) the adoption of adjudication committees and the administration of law by collegia; (c) the review and periodic check of non-appellant cases by the higher courts and the practice in the lower courts of seeking instructions from and reporting to the higher courts; (d) the conduct of circuit hearings; (e) the use of People's assessors, a system similar to the Western jury system, which includes representatives from various people's organizations; (f) the use of trials for cases involving disputes among Party members and workers in factories, offices, and enterprises; and (g) such new techniques as oral inquiries and on-the-spot investigations and the establishment of People's reception rooms and mediation committees as means of enlisting mass support as well as for the intimidation of the masses.

3. The Third Stage After judicial reform, further effort was concentrated upon the establishment of the new system and the training of new cadre to fill the vacancies which resulted from large-scale liquidation of the former workers. In 1953, as a result of the second session of the All-China Judicial Conference, a directive was issued calling for the immediate training of 200 to 500 judicial workers and for the drafting of a training plan in each region.[13] Effort was made to strengthen judicial authority at the lower levels and to set up special courts in

13. People's Daily, Sept. 10, 1953, p. 1.

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the industrial and mining centers as well as courts with jurisdiction over railways and waterways. During 1953 and 1954, however, the reorganization was limited to the establishment of model special courts in Central-South China. As of September 1954, only eight railway courts and one waterway court had established in the whole nation.[14] No report is available on the establishment of other special courts. Nevertheless, because of the rising number of cases involving economic matters in the nation (90,000 cases in 1953),[15] the attempt to strengthen judicial work in industry was to be further intensified in 1955.

The introduction of new methods for the administration of law in the courts contered upon the establishment of People's tribunals[16] on a broader and more permanent base. The organization and functions of the People's tribunal remained the same. Whenever it was necessary, they were to hold circuit hearings in villages and towns. In brief, the tribunal was a mobile trial court, a suppressive instrument to be employed in villages which the county People's court could not reach.

Special attention has also been given to the use

14. Ibid., September 4, 1954.
15. Ibid.
16. Report of progress in 1953 in People's Daily, May 20, 1954, p. 1; Enlightenment Daily, April 17, 1955, p. 2.

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of People's assessors and open mass hearings[17] as means by which the Communists utilize mass terror. Although the People's assessors system resembles the jury system in Western practice, the assessors are chosen from organizations controlled by the Party. The continuous support of these practices cannot be considered an innovation but is a renewed determination to employ organized terror "to maintain public order and safety."

The selection of judges for the different courts is a means to extend political control to judicial matters. Judges and the presidents of the adjudication committees at local levels are elected by the respective People's congresses, and the other members of the committees are appointed by the People's councils. Such political control by the Communists of the judicial branch of the government is too blatant to be overlooked.

B. People's Procuratorate

The People's Procuratorate is called a "judicial organ" but in reality is a prosecuting agency exercising control over both People's courts and public security agencies. It is in itself a centralized system.[18] Powers exercised by the local offices include the supervision of decisions,

17. See Ssu Hsuan, Jen-min Fa-yüan, Shih-hsing Kung-k'ai Shen-p'an Ti I-i [The Meaning of the Open-Hearing Practiced by the People's Courts], No. 3, March 3, 1955, pp. 50-51.

18. For the organization and operation of the people's procuratorate, consult the organic law of the people's procuratorate. English text in Current Background, No. 303, No. 5, 1954, pp. 8-11.

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orders, and measures of local state organs, inquiry into criminal activities, supervision of the work of the People's courts, guidance in passing judgment on criminal cases and the activities of the agencies for "Reform-through-labor," and the right to prosecute criminal cases or to join in the prosecution of important civil cases involving the interests of the State and the people. 692

In the past, a Central-South China branch of the Supreme People's Procuratorate was maintained to represent and act as a leading procuratorate in this region. Since the promulgation of the new Organic Law of the People's Procuratorate, this office has been abolished; consequently, the relation between the central and local agencies is more direct. The appointment by the Supreme People's Procuratorate of chief procurators, deputy procurators, and members of the procuratorial committees of the Provincial People's Procuratorate increases this tendency toward centralization. In the same fashion, the component members of city, county, and ch'ü procuratorial committees are appointed by the procuratorate at a higher level.

The use of the People's Procuratorate in this region as an agency of control and terror can be best illustrated by the manner in which heads or deputy heads of the Public Security Department are appointed as chief or deputy chief of procurators. Notable examples of this type of appointment were seen in the Wuhan and Canton municipal People's

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Procuratorate.[19] Other chiefs or deputy chiefs of the local procuratorates were either the Party District secretary, chief of the organization department of the Communist Party,[20] or other key functionaries in the Party. Party control, together with the fusion in personnel of the public security organs and the procuratorates, insures the exercise of procuratorial power by the Communists, thus securing a tighter control over other agencies of violence and causing additional reasons for terror among the populace.

People's procuratorates have co-ordinated their main task with the key drives of the country. With the nation-wide disclosure of corruption and inefficiency and with the call for suppression of counterrevolutionary activities, people's procuratorates are certain to co-operate with other organizations for the accomplishment of the tasks assigned.[21]

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II. PUBLIC SECURITY ORGANS AND POLICE

A. Public Security Organs

19. Chu Ti-hsin in Wuhan and Cheng Pei-ch'en in Canton, Yangtze Daily, Dec. 18, 1951, p. 3.

20. Wang Li-kuang of Honan provincial people's procuratorate and Chou Nan of Kwangtung, ibid.

21. Like public security agencies, special people's procuratorate offices were established in all enterprises, transportation center, mining areas and in some cases, in villages. People's Daily, March 20, 1954, p. 1. and ibid., April 1, 1954, p. 3.